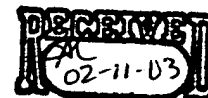


Official

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S/N: 09/398,289PATENT APPLICATIONIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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|-------------|--|-----------------|----------------------------------|
| Applicant: | H. Melman | Examiner: | S. Al Alam |
| Serial No.: | 09/398,289 | Group Art Unit: | 2172 |
| Filed: | 20 September 1999 | Fax: | (703) 746-7238 (703) 746-7239 |
| Title: | APPARATUS AND METHOD FOR SEARCH AND RETRIEVAL OF DOCUMENTS | | |

APPEAL BRIEF

Assistant Commissioner for Patents
Washington, DC 20231

9 July 2002

Dear Sir:

Following our phone conversation on 28 January 2003, an Appeal Brief is provided.

Sincerely,

Haim Melman / Inventor.

Summary:

The examiner rejected the claims under 35 USC 102. The applicant believes that the office actions failed in supporting this position with reference to prior art.

In addition, the applicant believes that the examination process was inappropriate in the following aspects:

1. **Miss-presentation of prior art:** To reject the claims under 35 USC 102 the examiner makes presentations with references to prior art. The cited prior art texts clearly do not support the examiner's presentations. Nevertheless, these presentations were used as a ground for rejection of claims.
2. **Misleading quotation of prior art** - The examiner presents partial quotes from prior art, with broken sentences, out of context, thus distorting the meaning of the sentence to create a miss-leading presentation used to reject claims.
3. **Misleading presentation of the current invention:** Presenting the current application in ways that can not be implied from the text of the current application.

It is the intention of the applicant to make this appeal shorter than the detailed replies to the office action and present in this appeal only the claims that are believed by the applicant to represent his position in the most obvious manner.

The applicant requests the appeal committee to allow these claims and their dependent claims.

The Appeal Brief is arranged by order of the claims:

CLAIM 1

A database for use in conjunction with information search, whereas said database contains at least one item representing at least one query.

(1) Miss-presentation of prior art

The first office of 28 Aug 01 (8/01) states that claim 1 is rejected under the presentation that Beall (US 6,032,145) teaches a database for use in conjunction with information search, whereas said database contains at least one item representing at least one query (column 4, lines 19, 35-40).

A careful examination of the lines cited by the examiner does not show the above representation:

Line 19:

"The database 14 is electronic catalog of products."

Read: the database contains products.

Not phone numbers, not addresses, not the daily water consumption in Boston in the last 5 years and no queries. Only products.

This does not support the office action presentation that Beall's database contains queries.

Lines 35-40:

"The selection of a catalog is based on the likelihood that that the catalog will have the desired item. As such, there must be a standard query format for each of the catalogs so that the same search string can be used to determine possible matches against each catalog."

These lines also do not support the office action presentation that Beall's database contains queries.

To remove any doubt, Beall's column 4 lines 19-33 make very clear that the word "item" refers to a specific Product, as in "... products from different suppliers" (column 4 line 26).

Beall makes it clear that "... database 14 which resides in computer memory storage device 16." (column 4 lines 12-13) Contains products. There is no way to confuse it with database containing queries instead or in addition to products.

Beall defines a database as an "electronic catalog of products." (column 4 line 18). Beall further emphasize this property in column 4 lines 19-21: "The database 14 is perfectly constructed in a manner known as a "universal" catalog, in which like products from different suppliers have a single database record."

Underline is added by the applicant.

In the language of claim 1: THE ITEMS OF DATABASE 14 OF BEALL DO NOT REPRESENT AT LEAST ONE QUERY BUT AT LEAST ONE PRODUCT.

In column 4 lines 37-40 Beall refers to the need for a standard query format for use in search for product records.

Beall does not suggest that database contains queries. There is no indication in Beall that database 14 contains anything but products. Not a query and not a query format.

The presentation made by the examiner, that Beall teaches a database that contains a query is thus not supported in the text cited by office action 8/01.

(2) Misleading quotation of prior art:

In the office action of 2 April 2002 (4/02), to demonstrate that Beall teaches claim 1, a database that contains a query, the examiner quotes Beall in page 2, lines 14-16 of office action 4/02:

"The selection of a catalog is based on the likelihood that catalog will have the desired item and there must be a standard query [end of quote]"

The applicant respectfully argues that this quotation is obviously presented out of its' context by omitting the last part of the sentence and thus creating a misleading interpretation of Beall.

The full sentence is provided here (Beall, column 4 lines 35-40):

"The selection of a catalog is based on the likelihood that catalog will have the desired item and there must be a standard query format for each of the catalogs so that the same search string can be used to determine possible matching against each catalog."

The part missing from the quotation made by the examiner is underlined.

The out of context quote “and there must be a standard query...” is used by the examiner to represent that the catalog of Beall contains a query.

The **complete** quote “and there must be a standard query format for each of the catalogs so that the same search string can be used” implies differently in very obvious and clear words:

- a. Beall refers to a “query format” and not a “query”.

The complete quote clearly implies that Beall does not present a database containing a query but refers to the query format required to conduct the search for records of products.

- b. Beall further explains the “query format” to remove any doubt:

“...there must be a standard query format for each of the catalogs so that the same search string can be used...” (column 4 lines 37-39).

Beal clearly differentiates the “query format” from the “search string” (the search string is the query or, using the applicant terminology, the item representing a query).

Beal does not represent that the database contains the search string

The partial misleading quotation from Beall does not really support the position of office action 4/02 to reject claim 1. The complete and faithful quotation certainly does not support this position.

The office action presentation that Beall provides database containing queries is therefore not supported by this reference.

(3) Misleading presentation of the current invention

In office action 4/02 the Examiner writes:

“In claim 1, the Applicant is broadly claiming at least one item, but is not explicitly claiming whether that item is a product item or item of the query.”

(Page 2 lines 20-21).

Here is the claim again:

A database for use in conjunction with information search, whereas said database contains at least one item representing at least one query.

The examiner’s presentation simply ignores the last 5 words of the claim!

One may say that the item may be alphanumeric, ASCII or binary but regardless of the form, the **item represents a query** as clearly written in the claim.

(4) Other issues

A written faxed to the Examiner sent on 19 June 2002 followed by a phone interview on 20 June 2002 brought a suggestion, from the applicant, to change claim 1 as follows:

A database for use in conjunction with information search, whereas said database stores [contains at least one item representing] at least one query.

to create the claim:

A database for use in conjunction with information search, whereas said database stores at least one query.

The examiner referred to the suggested claim as being still too broad and omnibus. This position was not explained and the basis for this position is unknown to the applicant. The applicant is not aware of "too broad" as an adequate basis for claim rejection. The applicant can not see why this claim falls under omnibus status.

CLAIM 4

A method for composing queries comprising:

a database containing at least one item representing at least one query and;

means for composing a query and;

means for relating said at least one stored item to a query undergoing a composition process.

Office action 8/01 refers here to Beall column 4 lines 35-40 and 61-64 as a prior art.

Beall, column 4 lines 35-40:

"The selection of a catalog is based on the likelihood that catalog will have the desired item and there must be a standard query format for each of the catalogs so that the same search string can be used to determine possible matching against each catalog."

Beall, column 4 lines 61-64:

"The search string may comprise search terms in any order. For example, the search could include the name of an item, a part number of an item, or any descriptive attribute of the item."

The claim represents:

a database containing at least one item representing at least one query - means for relating said at least one stored item to a query undergoing a composition process

In other words:

One query is stored in the database (Beall stores only products).

One query is undergoing a composition process.

The 2 queries are being compared (Beall does not compare 2 queries to each other).

Office Action 8/01 does not explain how the cited paragraphs surpassingly demonstrate the features of claim 4.

There is no explanation of this also in office action 4/02. Just a global rejection statement of claims 1-11.

Ignoring an amended claim:

In spite of the above, in reply to office action 8/01 the applicant edited the claim to enable more narrow and allowable new claim:

A method for composing queries comprising:

a database containing at least one item representing at least one query and;
means for composing a query and;

means for relating said at least one stored item to a query undergoing a composition process AND;

MEANS FOR USING AT LEAST A PART OF SAID AT LEAST ONE
STORED ITEM TO MODIFY SAID QUERY UNDERGOING A
COMPOSITION PROCESS.

4/02 office action and final rejection ignored the suggested amendment.

Claim 8

Ignoring an amended claim:

Also here, to simplify the process, the applicant suggested in response to office action 8/01 an amended claim:

A method for search of information comprising:

a database containing at least one information datum and at least one item representing at least one query and;

[means for relating] SAID DATABASE CONTAINS A RELATION OF said
at least one information datum to said at least one item representing at least one query.

4/02 office action and final rejection ignored the suggested amendment.